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| 09/811,128      | 03/16/2001  | Albert Y. Teng       | 42390P11049         | 6521             |

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TROP PRUNER & HU, PC  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON, TX 77024

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| EXAMINER |
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DINH, KHANH Q

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| ART UNIT | PAPER NUMBER |
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2151

DATE MAILED: 10/04/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/811,128

Applicant(s)

TENG ET AL.

Examiner

Khanh Dinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/15/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. During a telephone conversation with Paul A. Mendonsa (Reg. No.42,879) on 9/23/2004 a provisional election was made without traverse to prosecute the invention, claims 9-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
2. Claims 1-8 and 13-34 are presented for examination.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8 and 13-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Hericourt (hereafter Hericourt), U.S. pat. No.6,792,461.

As to claim 1, Hericourt discloses a communication switch comprising:

at least one input for receiving messages, each message including,

an address specifier and a port specifier (using IP datagram, see fig.5, col.10 line 57 to col.11 line 13 and col.15 line 46 to col.16 line 33).

a traffic analyzer (traffic analyzer 513 fig.5) for comparing the port specifier of a first message against the port specifiers of previously received messages and an output for reporting a

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result of the comparing (checking to see if the request HTTP located in cache, see col.11 lines 14-63 and col.12 lines 12-57).

As to claims 2 and 3, Hericourt discloses a usage tracking system for throttling traffic through the communication switch and means for throttling traffic according to address specifier and port specifier in combination (using web traffic policing to process data messages, see col.12 line 26 to col.13 line 27).

As to claims 4 and 5, Hericourt discloses the usage tracking system includes means for throttling traffic according to a predetermined maximum aggregate bandwidth for the communication switch and reporting fraud over the output (using traffic analyzer to determine if IP datagram is originated from a source device or from a server, see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 6, Hericourt discloses the traffic analyzer is further for comparing the address specifier and port specifier combination of the first message against the address specifier and port specifier combinations of the previously seen messages (see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 7, Hericourt discloses that each message further includes, traffic type specifier; and the traffic analyzer is further for comparing the traffic type specifier of the first message against the traffic type specifiers of the previously received messages (see col.12 lines 20-58 and 19 lines 13-64).

As to claim 8, Hericourt discloses each message further includes a traffic type specifier and the traffic analyzer is further for comparing the address specifier, port specifier, and traffic type specifier

of the first message against the address specifier, port specifier, and traffic type specifier combinations of the previously received messages (see col.12 lines 20-58 and col.17 line 23 to col.18 line 60).

As to claim 13, Hericourt discloses a method comprising:

receiving a message which includes an address:port identifier (using IP datagram, see fig.5, col.10 line 57 to col.11 line 13 and col.15 line 46 to col.16 line 33).

comparing the address:port identifier against previously received messages' address:port identifiers (checking to see if the request HTTP located in cache, see col.11 lines 14-63 and col.12 lines 12-57); and

determining whether excessive traffic is originating from a source identified by the address:port identifier (see col.13 lines 4-67).

As to claims 14 and 15, Hericourt discloses throttling message traffic in response to determining that excessive traffic is originating from the source and throttling message traffic to and/or from that source (see col.12 line 26 to col.13 line 27).

As to claim 16, Hericourt discloses comparing the type specifier against type specifiers of previously received messages from the same address:port as the message and determining whether the source is issuing messages of different types such as indicate fraud (using traffic analyzer to determine if IP datagram is originated from a source device or from a server, see col.12 lines 20-58 and col.14 lines 13-65).

As to claims 17 and 18, Hericourt discloses sending a fraud alert in response to determining that the source is issuing messages of different types such as indicate fraud and recording the

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message for use in future comparisons against future messages (using web traffic policing extension table, see fig.6, col.13 line 29 to col.14 line 65).

As to claim 19, Hericourt discloses receiving an indication of a maximum bandwidth and throttling message traffic in response to the indication of the maximum bandwidth (using traffic analyzer to determine if IP datagram is originated from a source device or from a server, see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 20, Hericourt discloses a customer premises gateway for communicating with an ISP premises head-end server (web system 505 fig.5), the customer premises gateway comprising:

- at least one first I/O (509 fig.5) each for connecting to a communication device (501 fig.5) and a second I/O (proxy server 503's fig.5) for connecting to the ISP premises head-end server (505 fig.5); and

- a traffic analyzer (513 fig.5) coupled to the at least one first I/O and the second I/O, including a port identifier comparator, a throttling mechanism, and a fraud reporter (checking to see if the request HTTP located in cache, see col.11 lines 14-63 and col.12 lines 12-57).

As to claims 21 and 22, Hericourt discloses a message type analyzer, comparing a first address:port combination of a message against a second address:port combination of a previously received message and responsive to the address:port comparison, determine whether excessive traffic is going to/from the first address:port combination (see col.12 lines 20-58 and col.14 lines 13-65).

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As to claim 23, Hericourt discloses throttling traffic to/from the first address:port combination and report fraud (see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 24, Hericourt discloses comparing a first type specifier of the message against a second type specifier of the previously received message and responsive to the type specifier comparison (see col.12 lines 20-58 and col.14 lines 13-65).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 25-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hericourt in view of Sigaud (hereafter Sigaud), U.S. pat. No.6,657,956.

As to claims 25 and 26, Hericourt's teachings still applied as in item 4 above. Hericourt further discloses a router (509 fig.5). Hericourt does not specifically disclose masquerading port information and reporting the masquerading. However, Sigaud discloses disclose masquerading port information in IP environment and report the masquerading (preventing a hacker from connecting at a given moment by masquerading as someone else at the terminal connected to the IP network, see fig.2, col.4 line 60 to col.5 line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Sigaud's teachings into the computer system of Hericourt to protect data information because it would have protected a stations' access to at least one server and provided selection access to the application requested from the server in a communications network.

As to claim 27, Hericourt discloses a method for a communication switch to detect that a device connected to the communication switch is a router, comprising:

- receiving from the device a message including address and sub-address identifiers (using IP datagram, see fig.5, col.10 line 57 to col.11 line 13 and col.15 line 46 to col.16 line 33).

- comparing the address and sub-address identifiers against one or more previously received messages (checking to see if the request HTTP located in cache, see col.11 lines 14-63 and col.12 lines 12-57).

Hericourt does not specifically disclose detecting that the device is performing masquerading. However, Sigaud discloses disclose detecting that the device is performing masquerading (preventing a hacker from connecting at a given moment by masquerading as someone



else at the terminal connected to the IP network, see fig.2, col.4 line 60 to col.5 line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Sigaud's teachings into the computer system of Hericourt to protect data information because it would have protected a stations' access to at least one server and provided selection access to the application requested from the server in a communications network.

As to claims 28 and 29, Hericourt discloses observing a first message type indicator in the message and a different message type indicator in at least one of the previously received messages and recording the address and sub-address identifiers of the message, receiving a second message and comparing the second message's address and sub-address identifiers against the recorded address and sub-address identifiers (see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 30, Hericourt discloses the address identifier comprises an Internet Protocol address and the sub-address identifier comprises a port number (see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 31, Hericourt discloses sending a fraud alert to a server (see col.12 lines 20-58 and col.14 lines 13-65). Hericourt does not specifically disclose to detecting masquerading. However, Sigaud discloses disclose detecting masquerading (preventing a hacker from connecting at a given moment by masquerading as someone else at the terminal connected to the IP network, see fig.2, col.4 line 60 to col.5 line 65). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Sigaud's teachings into the computer system of Hericourt to protect data

information because it would have protected a stations' access to at least one server and provided selection access to the application requested from the server in a communications network.

As to claims 32 and 33, Hericourt discloses throttling message transmission, comparing a message type identifier of the message against one or more previously received messages and detecting that the message type identifier of the message is different than a message type identifier of a previously received message having a same address identifier and a same sub-address identifier as the message (see col.12 lines 20-58 and col.14 lines 13-65).

As to claim 34, Hericourt discloses the address identifier comprises an Internet Protocol address, the sub-address identifier comprises a port number and one of an HTTP specifier and an FTP specifier (see col.12 lines 20-58 and col.14 lines 13-65).

***Other prior art cited***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. McCreery et al, US pat. No.5,787,253.
- b. Macleod Beck et al, US pat. No.6,170,011.
- c. Bharali et al, US pat. No.6,216,163.
- d. Procopio et al., U.S. pat. No.6,691,167.

**Conclusion**


8. Claims 1-8 and 13-34 are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (703) 308-6687. The fax phone number for this group is (703) 872-9306.

*A shortened statutory period for reply is set to expire THREE months from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U. S. C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

  
Khanh Dinh  
Patent Examiner  
Art Unit 2151  
9/27/2004